




Report to the Auburn City Council

Action Item
Agenda Item No. **7**

City Manager's Approval

To: Mayor and City Council Members
From: Lance E. Lowe, AICP, Associate Planner 
Date: July 22, 2013
Subject: A Public Hearing to Consider an Appeal of the Historic Design Review Commission's Denial of a Historic Design Review Permit for a Wall Mural Proposed at 153 Cleveland Avenue.

The Issue

Should the City Council deny the appeal, thereby affirming the Historic Design Review Commission's denial of the Wall Mural or should the City Council approve the appeal, thereby overturning the Commission and approve the Wall Mural?

Recommended Motion (Approval)

Based upon staff's initial Historic Design Review Commission recommendation of approval and the City Attorney's advice, staff recommends that the City Council take the following actions:

- A. By Resolution (**Exhibit D**) uphold the appeal, thereby approving the Historic Design Review Permit for the Wall Mural, based upon substantial evidence in the public record, which includes the following actions:
1. Adoption of a Categorical Exemption, prepared for the Historic Design Review Permit as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
 2. Adoption of Findings of Fact to uphold the appeal and approve the Historic Design Review Permit; and,
 3. Approval of the Historic Design Review Permit in accordance with the Conditions of Approval as presented in the Staff Report.

Alternative Motion (Denial)

- B. Deny the appeal, based upon substantial evidence in the public record and the Historic Design Review Commission's (3:4) vote, thereby denying the Historic Design Review Permit for a Wall Mural and direct staff to prepare appropriate findings and resolutions for City Council consideration at the August 12, 2013, meeting.

Background

On June 18, 2013, the Historic Design Review Commission held a duly noticed public hearing to consider a Historic Design Review Permit for a Wall Mural proposed at 153 Cleveland Avenue (**Attachments 1 & 2 of Exhibit A – Vicinity Map & Aerial Photograph**).

After receiving public testimony and discussion of consistency of the mural with the City's Historic District, *Historic Preservation Architectural Design Guidelines* and *Secretary of the Interior Standards for the Treatment of Historic Properties* as well as design suggestions provided by the Historic Design Review Commission, a motion was made to approve the Wall Mural, as presented. As a result of a lack of an affirmative vote (3:4), by the Historic Design Review Commission, the Wall Mural was denied (Moved: Vitas; Seconded: Spokely; Ayes: Vitas, Green & Spokely; Noes: Luebkehan, Worthington, Combs & Kratzer-Yue; Absent: Willick & Briggs) (**Exhibit B – Historic Design Review Commission Minutes dated June 18, 2013**).

On June 19, 2013, an appeal was filed by Mr. Louis Buchetto with the City Clerk's Office noting that due to the Historic Design Review Commission's 3:4 vote; acknowledging that the four (4) dissenting Commission votes were based primarily upon consistency with the City's Historic District and further recognizing that the three (3) affirmative Commission votes acknowledged that: 1) The buildings on Cleveland Avenue are either cinderblock or vinyl sided; 2) There is nothing that ties Cleveland Avenue into the Historic Charm of Auburn; and, 3) Cleveland Avenue is the outer border of the Historic District and Cleveland Avenue could benefit from the color and life that this mural would bring. The appellant has requested to appeal the project to the City Council for further consideration (**Exhibit C – Appeal Filed by Louis Buchetto dated June 19, 2013 with Attachments**).

Project Description

Appeal of the Planning Commission's denial of a Historic Design Review Permit for a proposed Wall Mural at 153 Cleveland Avenue.

The proposed wall mural will cover the entirety of the wall, which is approximately eighteen (± 18) feet in height and forty (± 40) feet in length (**Attachment 4 of Exhibit A – Site Photographs**). With the exception of an existing "Sousa's Tire Service" sign, the grey CMU wall façade is bare. The existing "Sousa's Tire Service" signage is proposed to remain as illustrated in the Wall Mural Photo Simulation. The mural depicts a rural landscape with vegetation, flowers, steam, sun, clouds, moon and house (**Exhibit E – Wall Mural Photo-simulation**). Subsequent to the Historic Design Review Commission meeting, the muralist made a few adjustments to the Mural design by adding evergreen trees and snow to the mountains. An inscription: "Begin an Island of Love in your Heart and share it with the World" is proposed across the top of the mural in "Book Antiqued" font instead of "Litterbox ICG" font, as initially proposed.

The applicant proposes to use colors from a historic palette and the colors will be flat or eggshell muted colors to reduce the bright appearance of the mural.

Analysis

As discussed in the June 18, 2013, Historic Design Review Commission staff report, in consultation with the City Attorney, the City's regulation of signs and murals must be consistent with the First Amendment to the United States Constitution. Restrictions of non-commercial speech based on content are almost never permitted, as they are subject to the most demanding judicial scrutiny: such restrictions must be justified by a "compelling" governmental interest, and must be "narrowly tailored" to achieve that end. (See *Desert Outdoor Adver., Inc. v. City of Moreno Valley* (9th Cir. 1996) 103 F.3d 629.) Aesthetics is not considered a "compelling" interest. Therefore, the City can regulate the dimensions, colors, materials, and locations of signs, as it does in the Municipal Code and the Historic Preservation Architectural Design Guidelines, but not the "content" of the signs. The message is protected, but the means of conveying it is not. Obviously, the distinction may not always be simple to draw.

According to the City Attorney, the mural is a non-commercial sign protected by the First Amendment as described above. Because the project site is within the Downtown Design Review District, the content-neutral design elements (e.g. colors, font, design components, etc.) may be required to be consistent with the City adopted Historic Preservation Architectural Design Guidelines as required of all signage. If the mural is consistent with these content-neutral standards, which apply to all signs in the designated area, it should be approved. The City cannot, consistent with the First Amendment, deny a permit for this mural based on a disagreement with the artist's message. Thus, a "modern" message in "historic" dress is protected by the First Amendment.

As indicated in the June 18, 2013 Historic Design Review Staff Report, the *Historic Preservation Architectural Design Guidelines* and *Department of the Interior Standards* do not specifically address murals. The *Department of the Interior Standards* recommends paint colors that are consistent with the *Historic Preservation Architectural Design Guidelines*. With respect to signs, applicable *Historic Preservation Architectural Design Guidelines* recommends:

"Colors are encouraged but should be harmonious with the colors used on the building façade and should be true colors, not synthetic or luminescent".

"All signs should be of a professional quality."

"No fluorescent or luminescent paint."

"Newly created wall-painted signs for present businesses are allowed on the side and rear facades if appropriate to the building location and if the sign is rendered in a historic manner."

Staff reviewed the proposed mural with respect to the above applicable *Historic Preservation Architectural Design Guidelines* and conditioned the mural accordingly.

Conditions of Approval No. 3 require that the colors be true colors and that the colors be chosen from a historic color palette. Condition of Approval No. 4 also requires that Anti-Graffiti coating be applied to the wall mural to the satisfaction of the Public Works Department (**Exhibit A – Historic Design Review Commission Resolution No. 13-08**).

In review of the applicant's request to paint a wall mural, as conditioned, it is staff's opinion that the request is consistent with the *Department of the Interior Standards and Historic Preservation Architectural Design Guidelines*, to the extent applicable.

Alternatives Available to Council; Implications of Alternatives

Upon receiving public testimony, the City Council may choose the following alternatives:

- A. Approve the appeal and adopt the attached resolution approving the project; or,
- B. Direct staff to prepare findings and a resolution by which the Council may deny the appeal, thereby concurring with the Historic Design Review Commission's decision to deny the Wall Mural proposal, and continue the item to a later meeting at which those findings and resolution may be considered.

Fiscal Impacts

No fiscal impacts are anticipated with the appeal.

The appellant has paid the \$100.00 fee for processing of the appeal request.

Additional Information

EXHIBITS –

Exhibit A – June 18, 2013, Historic Design Review Commission Staff Report with Attachments & Exhibits:

Attachments –

- 1. Vicinity Map
- 2. Aerial Photograph
- 3. 1986 Historic Resources Survey – Uptown Business District Map
- 4. Site Photographs
- 5. Business Survey

Exhibits –

- A. HDRC Resolution No. 13-08
- B. Wall Mural Photo-Simulation
- C. Mural – Alternate House Design

Exhibit B – Historic Design Review Commission June 18, 2013 Minutes

Exhibit C – Appeal filed with by Louis Buchetto dated June 19, 2013 with Addendum dated July 5, 2013

Exhibit D – Resolution No. 13-_____with Findings and Conditions of Approval

Exhibit E – Wall Mural Photo-simulation

EXHIBITS





CITY OF AUBURN

Staff Report

Historic Design Review Commission

Meeting Date: June 18, 2013

Prepared by: Lance E. Lowe, AICP, Associate Planner

EXHIBIT A
ITEM NO.
V-A

ITEM V-A: HISTORIC DESIGN REVIEW – 153 CLEVELAND AVENUE (BUCHETTO WALL MURAL) – FILE HDR 13-05.

REQUEST: The applicant requests Historic Design Review Commission approval for a wall mural to be located on the southeast wall of 153 Cleveland Avenue.

RECOMMENDED MOTION (APPROVAL):

- A. Adopt HDRC Resolution No. 13-08 (**Exhibit A**) as presented, or as modified by the Historic Design Review Commission, for a wall mural located at 153 Cleveland Avenue, which includes the following actions:
1. Adoption of a Categorical Exemption, prepared for the wall mural as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA) and Guidelines;
 2. Adoption of Findings of Fact for approval of the wall mural as presented in the Staff Report; and,
 3. Approval of the wall mural in accordance with the Conditions of Approval as presented in the Staff Report.

ALTERNATIVE MOTION (DENIAL):

- B. Direct staff to amend Resolution No. 13-08 as presented for denial of the wall mural, based upon substantial evidence in the public record, located at 153 Cleveland Avenue.

MURAL APPROVAL MOTION:

- C. Delegate staff the authority to administratively approve future murals provided they comply with the standards contained in the *Historic Preservation Architectural Design Guidelines*.

BACKGROUND:

Applicant: Luis Buchetto; (530) 368-3644

Owner: Yvette Elder; (530) 885-9746

Location: 153 Cleveland Avenue (**Attachments 1 & 2**)

Assessor's Parcel Number: 002-100-002

Lot Size: ±5,835 square feet

Project Site:

Zoning: Central Business District (C-2)
Existing Land Use: Commercial

Surrounding Zone Districts:

North:	C-2	South:	C-2
East:	C-2	West:	C-2

Surrounding Land Uses:

North:	Bar	South:	Coffee House
East:	Antique Store	West:	Automotive Repair

BACKGROUND:

The project is located in the City's Downtown Historic Design Review District and is within the Uptown Historic District as defined in the 1986 Historic Resource Survey (**Attachment 3**). The building located at 153 Cleveland Avenue is a single story building with an approximate 7/12 gabled roof. The building is constructed along the back of sidewalk and includes a parapet along Cleveland Avenue. The exterior facade materials are CMU on all elevations. The southeast wall fronts on an alleyway.

The building is not identified in the City's Historic Resources Inventory conducted in 1986. Accordingly, the property and building were not recognized as having historical significance individually or to the Uptown Historic District.

PROJECT DESCRIPTION:

The applicant requests Historic Design Review Commission approval of a wall mural on the southeast wall of 153 Cleveland Avenue. The proposed wall mural will cover the entirety of the wall, which is approximately eighteen (±18) feet in height and forty (±40) feet in length (**Attachment 4 – Site Photographs**). With the exception of an existing "Sousa's Tire Service" sign, the grey CMU wall façade is bare. The existing "Sousa's Tire Service" signage will be removed and a new sign application will be required if the tenant desires to install additional signage. The mural depicts a rural landscape with vegetation, flowers, steam, sun, clouds, moon and house (**Exhibit B**). An alternate design of the house, illustrating a Victorian house design has also been submitted for Historic Design Review Commission consideration (**Exhibit C**). An inscription: "Begin an Island of Love in your Heart and share it with the World" is proposed across the top of the mural in Litterbox ICG font.

The applicant proposes to use colors from a historic palette and the colors will be flat or eggshell muted colors to reduce the bright appearance of the mural.

The applicant has also solicited the opinions of businesses in the area (**Attachment 5**).

ANALYSIS:

The recently adopted City of Auburn Sign Ordinance defines a “Mural” as:

“A scene painted or otherwise affixed on and made an integral part of a wall surface.”

The City’s Sign Ordinance also identifies murals as a permitted sign type in accordance with §159.189(A)(18) which states:

§159.189(A)(18) “Murals, graphics, time and temperature, and barber poles, as reviewed on an individual basis”.

Unlike other types of signage, the City of Auburn Sign Ordinance is silent on mural standards such as placement restrictions, size limitations, etc.

As the Historic Commission is aware, certain “free speech” protections are afforded to signage and message content thereof. Consequently, staff consulted with the City Attorney to ascertain the level of discretion that may be applied to the proposed mural. In consultation with the City Attorney, the mural constitutes a non-commercial protected message. Considering that the wall mural is a non-commercial message, it is a protected message not therefore regulated by the City’s sign ordinance size and other standards for wall signage (i.e. 6 square foot per 10 linear feet). Moreover, the content (i.e. elements making up the message) of the mural is also a protected message; however, considering that the mural is located in the Downtown Historic District, the City Attorney notes that the design (e.g. colors, font, design components, etc.) is required to be consistent with the City’s adopted *Historic Preservation Architectural Design Guidelines* as required of all signage.

The *Historic Preservation Architectural Design Guidelines* and *Department of the Interior Standards* do not specifically address murals. The *Department of the Interior Standards* recommends paint colors that are consistent with the *Historic Preservation Architectural Design Guidelines*. With respect to signs, applicable *Historic Preservation Architectural Design Guidelines* recommends:

“Colors are encouraged but should be harmonious with the colors used on the building façade and should be true colors, not synthetic or luminescent”.

“All signs should be of a professional quality.”

“No fluorescent or luminescent paint.”

“Newly created wall-painted signs for present businesses are allowed on the side and rear facades if appropriate to the building location and if the sign is rendered in a historic manner.”

Staff reviewed the proposed mural with respect to the above applicable *Historic Preservation Architectural Design Guidelines* and conditioned the mural accordingly.

Conditions of Approval No. 3 require that the colors be true colors and that the colors be chosen from a historic color palette. Condition of Approval No. 4 also requires that Anti-Graffiti coating be applied to the wall mural to the satisfaction of the Public Works Department.

In review of the applicant's request to paint a wall mural, as conditioned, it is staff's opinion that the request is consistent with the *Department of the Interior Standards and Historic Preservation Architectural Design Guidelines*, to the extent applicable.

Mural Approvals

As the Historic Design Review Commission may recall, in 2009 authority was granted to staff to approve signs administratively. Despite staff being granted the authority to approve signs administratively, the authority to approve murals was not explicitly granted to staff. Accordingly, staff believed it prudent to present the wall mural before the Historic Design Review Commission for consideration.

Should the Historic Design Review Commission desire to authorize staff the authority to approve murals administratively that are consistent with the *Historical Preservation Architectural Design Guidelines*, staff recommends that the same protocol as signs be used to approve murals (i.e. staff approves signage and e-mails approval to HDRC).

Should the Historic Design Review Commission elect to delegate the review and approval of future murals to staff, staff recommends that the Historic Design Review Commission adopt motion C thereby authorizing staff to approve future murals.

ENVIRONMENTAL DETERMINATION:

This application was reviewed pursuant to the Auburn Municipal Code and the California Environmental Quality Act (CEQA) and was determined to be Categorically Exempt under Section 15311 (Existing Facilities) of the CEQA Guidelines.

ATTACHMENTS:

1. Vicinity Map
2. Aerial Photograph
3. 1986 Historic Resources Survey – Uptown Business District Map
4. Site Photographs
5. Business Survey

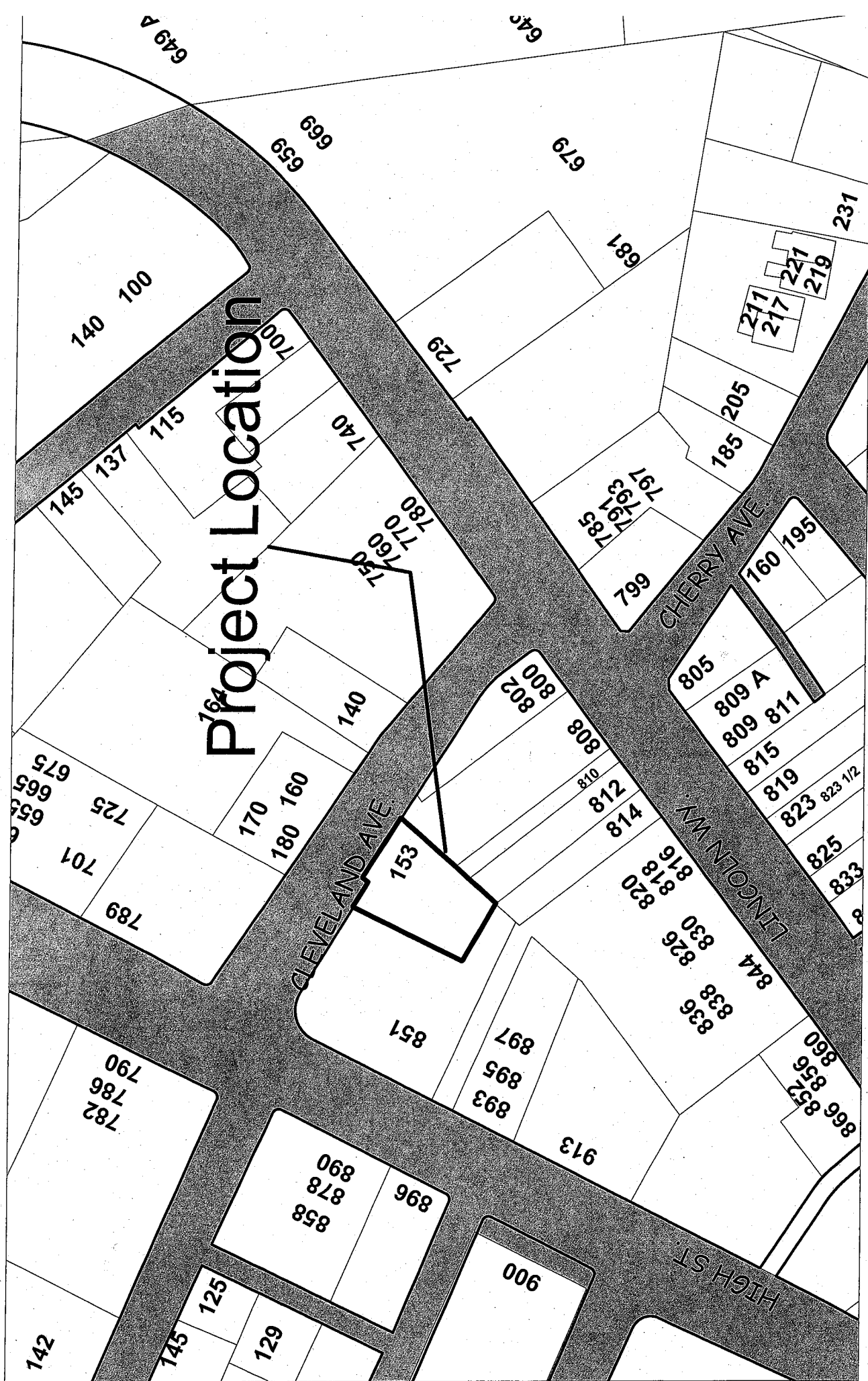
EXHIBITS:

- A. HDRC Resolution 13-08
- B. Wall Mural Photo-Simulation
- C. Mural – Alternate House Design



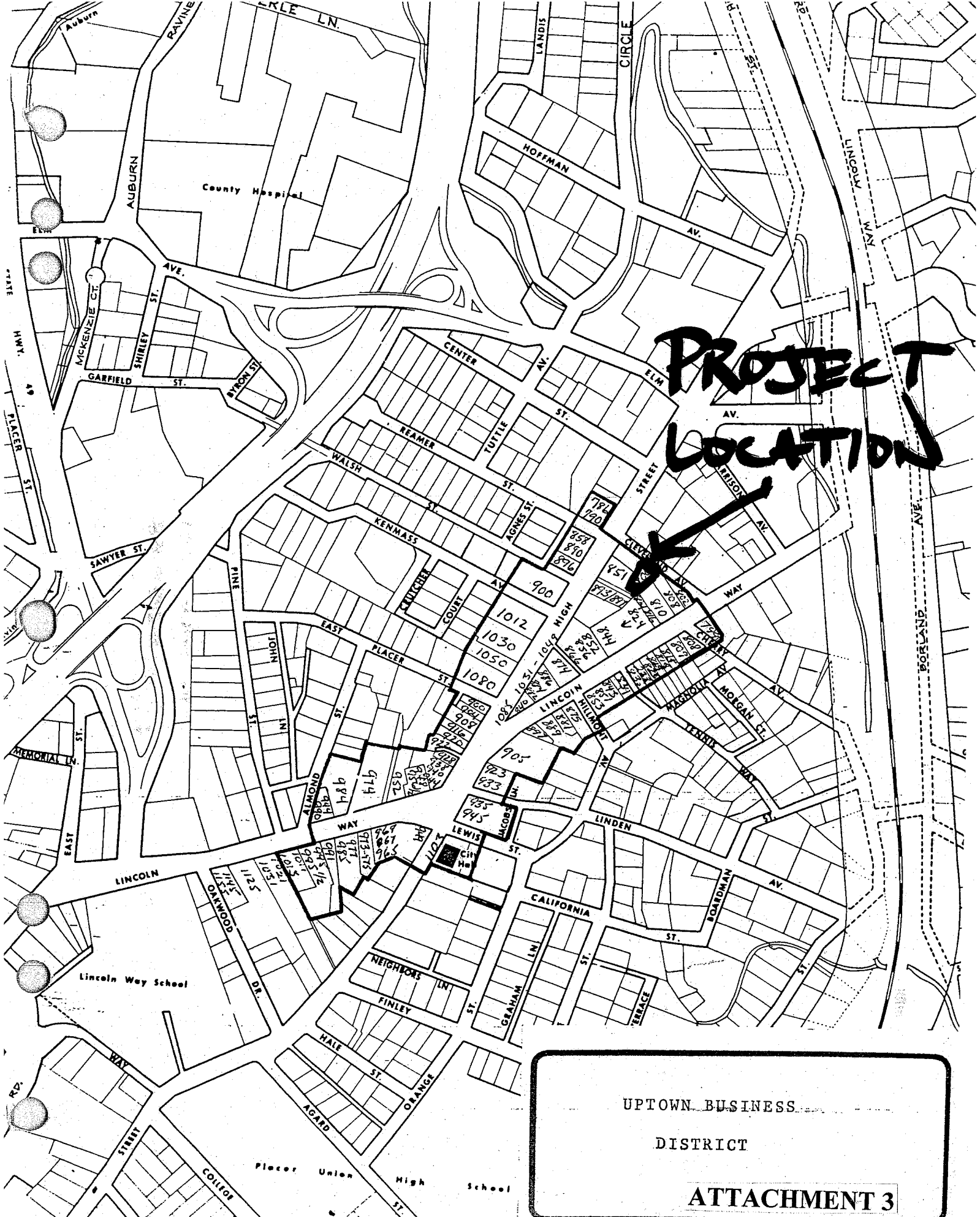
ATTACHMENTS

153 Cleveland Avenue/Wall Mural

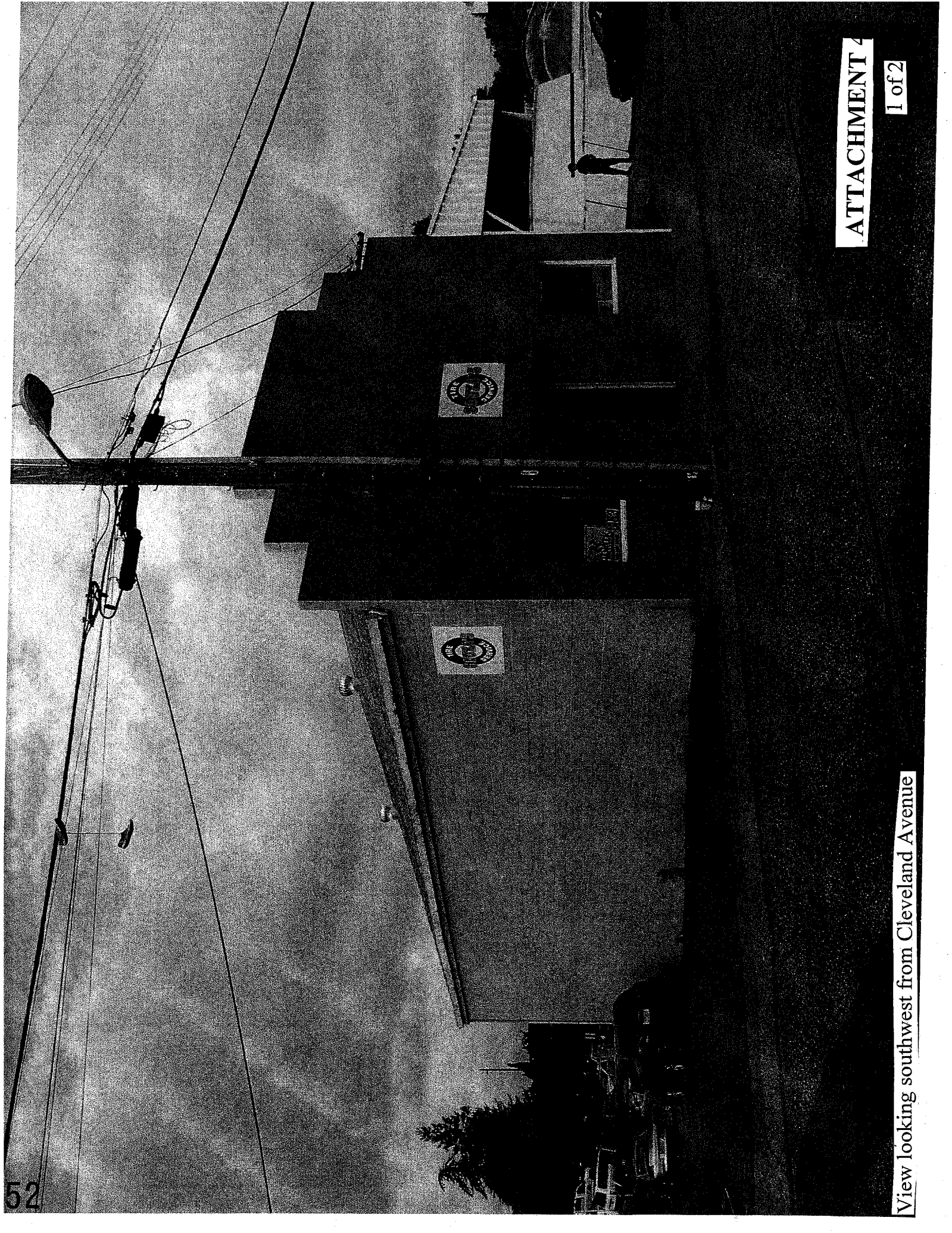


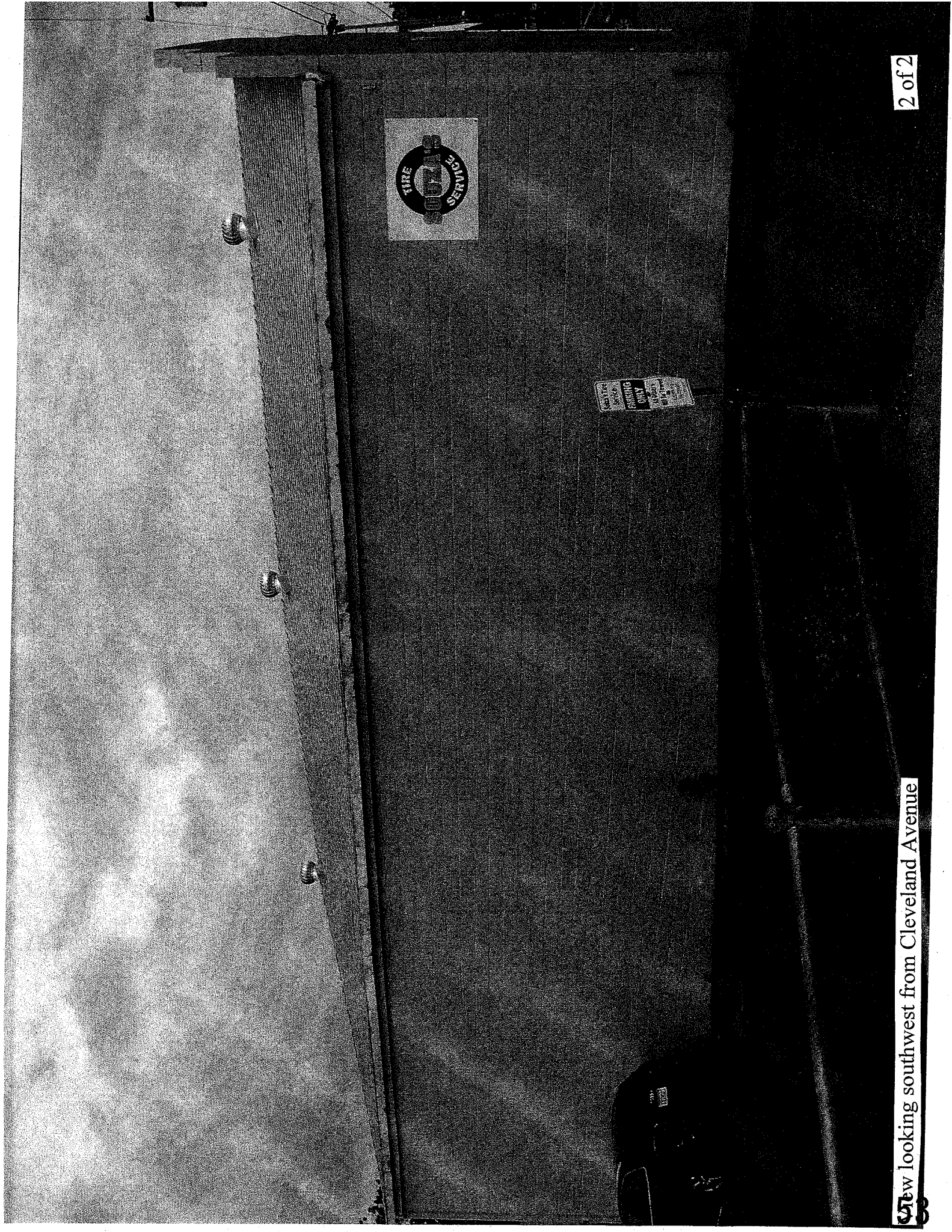
ATTACHMENT 1







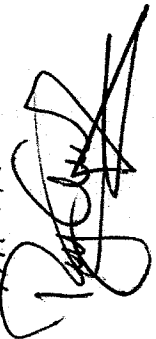
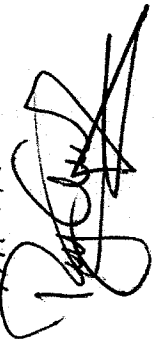

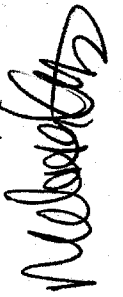

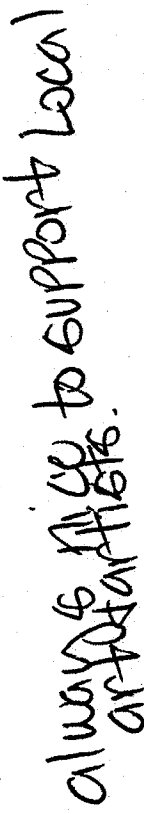
UPTOWN BUSINESS
DISTRICT
ATTACHMENT 3





View looking southwest from Cleveland Avenue

Public Opinion

Name	Location	Like it? <input checked="" type="radio"/> Yes <input type="radio"/> No	Comment	Signature
Eric Allan	wants in Auburn		Great Message	
Phil Souza's	Owner Souza's	yes	I like it, not what I expected, but I'm alright!	
ARNAN	BEST AMERICAN TIME	yes	Looks good. we need more	ARNAN 
Ray Arnold	170 Cleveland Ave Auburn	yes		
Lisa Hamilton	Bos's Gettys	yes	Fin all for the beautification of downtown	
Missy Keating	Little Belgium	yes!	It's beautiful on Main	
Justin Morris	Little Belgium	yes	Justin Morris	
amanda Lowry	Big salad shop	yes	always nice to support local artists.	

EXHIBITS



HISTORIC DESIGN REVIEW COMMISSION RESOLUTION NO. 13-08
BUCHETTO WALL MURAL (153 CLEVELAND AVENUE) – FILE HDR 13-05

Section 1. The City of Auburn Historic Design Review Commission held a public hearing at its regular meeting of June 18, 2013 to consider a request for Historic Design Review Permit for property located at 153 Cleveland Avenue for a wall mural - **File HDR 13-05**.

Section 2. The City of Auburn Historic Design Review Commission has considered all of the evidence submitted into the administrative record which includes, but is not limited to:

1. Agenda report prepared by the Community Development Department for the June 18, 2013 meeting.
2. Staff presentation at the public hearing held on June 18, 2013.
3. Public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the applicant's request.
4. All related documents received and/or submitted at or prior to the public hearing.
5. The City of Auburn General Plan, Zoning Ordinance, Historic Preservation Architectural Design Guidelines, and all other applicable regulations and codes.

Section 3. In view of all of the evidence, the City of Auburn Historic Design Review Commission finds the following:

1. The project is Categorically Exempt from the California Environmental Quality Act (CEQA) per Section 15301 (Existing Facilities).
2. The project is consistent with the Historic Preservation Architectural Design Guidelines.

Section 4. In view of all of the evidence and based on the foregoing findings and conclusions, the City of Auburn Historic Design Review Commission hereby approves the Historic Design Review Permit for the Buchetto Wall Mural (File HDR 13-05) subject to the following conditions:

1. The project is approved subject to **Exhibit B** on file in the Community Development Department. Minor modifications may be approved subject to review and approval by the Community Development Director.
2. The approval date for this project is **June 18, 2013**. This project is approved for a period of two years and shall expire on **June 18, 2013** unless the project has been effectuated or the applicant requests a time extension that is approved by the Historic Design Review Commission pursuant to the Municipal Code.
3. The final color selection shall be consistent with **Exhibit B**, which colors shall be true colors selected from the Historic Color Palette supplied by paint companies such as Benjamin Moore, Kelly-Moore, Sherwin-Williams and others.

4. Prior to completion of the mural, the applicant shall apply Anti-Graffiti coating on the mural. The type of Anti-Graffiti shall be to the satisfaction of the Public Works Department.
5. The City has determined that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorneys fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this [permit], or the activities conducted pursuant to this [permit]. Accordingly, to the fullest extent permitted by law, [Applicant] shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorneys fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this [permit], or the activities conducted pursuant to this [permit]. Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

Section 5. In view of all the evidence and based on the foregoing findings and conclusions, the City of Auburn Historic Design Review Commission, upon motion by Commissioner _____ and seconded by Commissioner _____ hereby approves Historic Design Review Permit for the Buchetto Wall Mural, subject to the conditions listed above and carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PASSED, APPROVED AND ADOPTED this 18th day of May 2013.

Chairman, Historic Design Review Commission
of the City of Auburn, California

ATTEST: _____
Community Development Department

Souza's Tire Service Building
153 Cleveland Avenue Auburn, CA 95603
Phone: (530) 823-8232

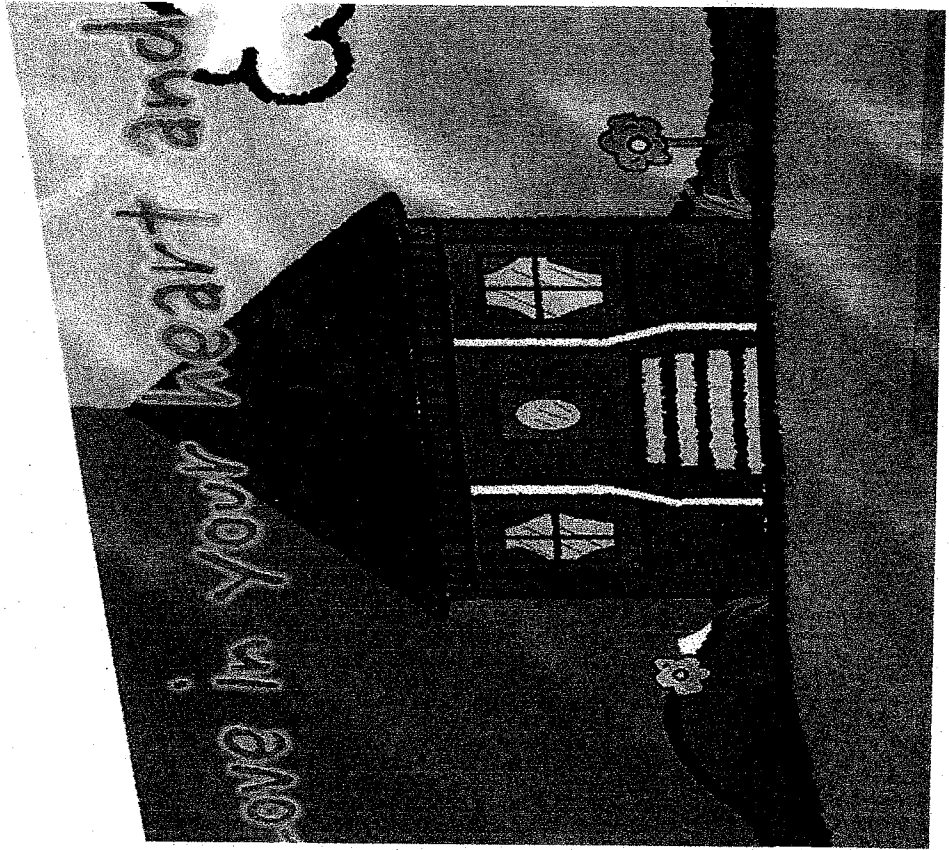
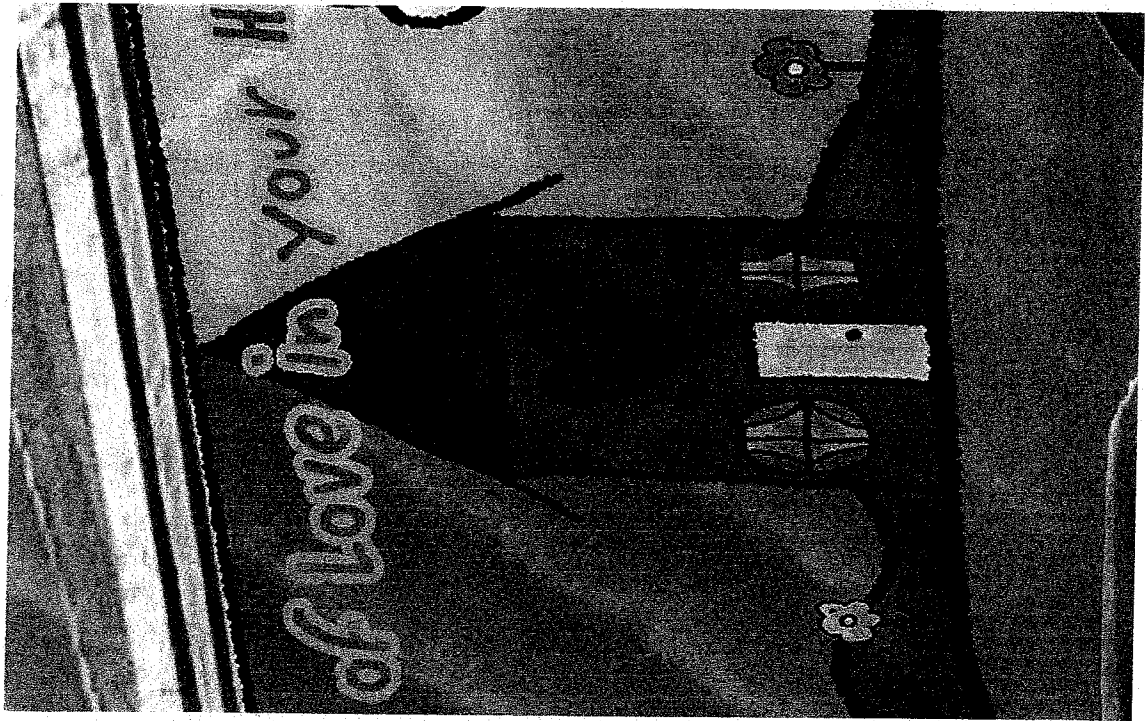
Building Owner
Yvette Elder
1000 Grass Valley Hwy
Auburn, CA 95603
530-885-9746

Begin an Island of Love in your Heart and share it with the world

"Begin an Island of Love in your heart and share it with the World"

Copyright
Louis Buchetto
125 Agard St.
Auburn, CA 95603
530-368-3644
EXHIBIT B

House to show historic design elements



**MINUTES OF THE
AUBURN CITY HISTORIC DESIGN REVIEW COMMISSION MEETING
June 18, 2013**

The regular session of the Auburn City Historic Design Review Commission meeting was called to order on June 18, 2013 at 6:00 p.m. by Chair Spokely in the Council Chambers, 1225 Lincoln Way, Auburn, California.

COMMISSIONERS PRESENT: Luebkehan, Vitas, Worthington, Combs, Green, Kratzer-Yue & Spokely

COMMISSIONERS ABSENT: Willick & Briggs

STAFF PRESENT: Will Wong, Community Development Director
Lance E. Lowe, AICP, Associate Planner

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF MINUTES

Approved September 4, 2012 and May 7, 2013 minutes as submitted.

IV. PUBLIC COMMENT

None

V. PUBLIC HEARING ITEMS

- A. HISTORIC DESIGN REVIEW – 153 CLEVELAND AVENUE (BUCHETTO WALL MURAL) – FILE HDR 13-05.** The applicant requests Historic Design Review Commission approval for a wall mural to be located on the southeast wall of 153 Cleveland Avenue.

Planner Lowe presented the wall mural project at 153 Cleveland Avenue. Planner Lowe discussed the design components of the mural, free speech content limitations and design considerations that are and are not under the Historic Design Review Commission's purview respectively; and consistency with the Department of the Interior Standards and Historic Preservation Architectural Design Guidelines, where applicable.

Planner Lowe answered questions from the Commission regarding mural options and house designs.

The Historic Design Review Commission requested clarification on the mural options for consideration.

Planner Lowe discussed the mural options removing the signage and leaving the signage.

Director Wong recommended that the Historic Design Review Commission approve both options if they liked them both so that the applicant would not have to come back for an amendment later.

Commissioner Worthington noted that the project site was in the Historic District and questioned how the mural design reflected the Historic Nature of Auburn.

Commissioner Kratzer-Yue stated that the mural seemed to be generic and did not relate to Auburn's history and noted that the mural should be unique and reflect Auburn's history.

Director Wong explained the free speech protections provided to non-commercial messages, which are not under the Historic Design Review Commission's purview and the design elements (i.e. colors, fonts, etc.) that are under the HDRC's discretion.

Commissioner Combs noted that she reviewed the *Department of the Interior's Standards* for consistency and noted that mural doesn't seem to fit within the Historic District.

Chairman Spokely opened the public hearing.

Louis Buchetto, of 125 Agard Street, the applicant and muralist, addressed the Historic Design Review Commission. Mr. Buchetto spoke to his art background and noted that he has been doing this type of art for approximately 10 years.

Mr. Buchetto noted that this type of art is located all over the world and he has done similar types of pieces in other Cities.

Mr. Buchetto noted that the owner liked the mural and he polled business persons within 100 feet of the site and received positive opinions on the design.

Mr. Buchetto noted that Cleveland Avenue is an area that has a mix of buildings that are not historic.

Commissioner Worthington asked Mr. Buchetto if he would be willing to modify or move his mural?

Mr. Buchetto replied that he believed his mural to be appropriate to the Cleveland Avenue area which is not historic. The mural is proposed to cover a blank grey CMU wall.

Commissioner Vitas concurred with the applicant that the Cleveland Avenue area is not historic and that the mural will be applied to a blank CMU wall.

Commissioner Green noted that he is glad to see artists move to the Auburn area and it is very honorable of Mr. Buschetto to paint this mural at his own cost.

Commissioner Green noted that with some minor adjustments, the mural could reflect Auburn's history. Commissioner Green noted that he appreciates the artists' mural, but would suggest that Mr. Buchetto consider:

- Adding a light in the window of the house;
- Changing the river to reflect Auburn;
- Incorporating one of Auburn's bridges.

Commission Combs noted that she supports the artists' vision but the mural is located in the Historic District and doesn't believe it is consistent with the Downtown Historic District.

Commissioner Luebkehan noted that he liked the mural and the Cleveland Avenue Street is not historic; however, Commissioner Luebkehan had concerns about property owners painting their buildings multiple colors and calling it a non-commercial protected message.

Planner Lowe noted that with respect to buildings, the Historic Preservation Architectural Design Guidelines notes that building colors should be limited to two primary colors and an accent color. However, those provisions directly apply to building colors and not murals.

Director Wong concurred and noted that staff's recommendation would be of denial if an applicant desired to paint their building multiple different colors. However, in this case, the applicant is clearly painting a non-commercial protected message.

Chairman Spokely commented that he agreed with the applicant, that Cleveland Avenue has a wide range of uses without much historical context. Chairman Spokely noted that painting the side of a blank CMU wall may give some life to the Cleveland Avenue street.

Chairman Spokely noted that slight modifications could be made to incorporate Auburn's diverse landscape and history, such as the confluence and great vistas, but appreciates the artists' personal vision for the mural.

Chairman Spokely noted that local artists should be supported for their effort and talents whenever possible.

Commissioner Vitas **MOVED** to adopt Historic Design Review Resolution No. 13-08 to include both options as provided by the applicant.

Commissioner Spokely **SECONDED** the motion.

AYES: Vitas, Green & Spokely
NOES: Luebkehan, Worthington, Combs & Kratzer-Yue
ABSTAIN: None
ABSENT: Willick & Briggs

VI. COMMISSION BUSINESS

- A. Commission Powers and Duties Ad Hoc Committee Discussion pursuant to Section 159.496 (A)(5) as stated:

§159.496 (A)(5) Render advice and guidance, upon request of the owner or occupant of the property, on the restoration, alternation, decoration, landscaping or maintenance of any cultural resource including landmarks, sites, districts or neighboring properties within public view;

Commissioner Luebkehan presented the draft updated Historic Design Review Web-page and discussed the Web-page. Commissioner Luebkehan noted that the Historic Design Review Commission should review the web-page and provide recommendations on any changes.

The Commission Powers and Duties Ad Hoc Committee will present the changes at the next available Historic Design Review Commission meeting.

VII. COMMUNITY DEVELOPMENT DEPARTMENT FOLLOW-UP REPORTS

- A. City Council Meetings

None

- B. Future Historic Design Review Commission Meetings

Director Wong noted that Ad Hoc committee for Commission Powers and Duties Number 6 and 10 is planned to be heard on August 6. There are no other Historic Design Review Commission meetings scheduled at this time.

- C. Reports

None

VIII. HISTORIC DESIGN REVIEW COMMISSION REPORTS

None

IX. FUTURE HISTORIC DESIGN REVIEW COMMISSION AGENDA ITEMS

None

X. ADJOURNMENT

The meeting adjourned at 7:30 p.m.

Respectfully submitted,

Lance E. Lowe, AICP, Associate Planner

**CITY OF AUBURN
PLANNING COMMISSION APPEAL**

The Auburn Municipal Code, Section 159.424, provides that any person not satisfied with an action of the Auburn Planning Commission may appeal said action to the City Council. **Such appeal shall be made by filing a written application with the City Clerk's Office within ten (10) calendar days after the decision of the Planning Commission.** Said written application shall specify the particular action or decision, or portion thereof, which is being appealed, and shall describe the reasons for the appeal, and should include suggested remedies.

The City Council shall act on appeal applications within sixty (60) days after such an appeal has been filed with the City Clerk's Office. Return completed application, along with fee of \$100.00 to:

City Clerk's Office
1225 Lincoln Way, Room 8
Auburn, CA 95603
(530) 823-4211 Ext. 112

APPEAL APPLICATION

I, Louis Buchetto
(Printed Name of Appellant)

Hereby appeal the below noted action (s) of the Auburn Planning Commission:

(Historic Design Review Committee)

Date of Planning Commission Action: June 18, 2013

Project Name/Application No. (s): Moral Cleveland St.

(Use Permit, Subdivision map, etc)

Project Location: 153 Cleveland St.

Assessor's Parcel Number: 002-100-002

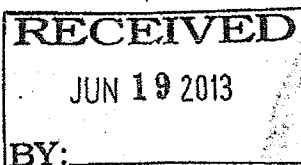
Mailing Address: 125 Agard St, Auburn, CA 95603

Phone: 530-368-3644 Email: LLL@LouisBuchetto.com

L. Buchetto
Signature of Appellant Date

.....
For City Staff Use Only

Date: 6/19/13 Receipt No. 68827 Received by: *[Signature]* Fee Paid: \$100



AMY M. LIND
DEPUTY CITY CLERK
CITY OF AUBURN

Thank you all for your time and service
to the people of Auburn.

Question: Planning Commission Action / Condition (HDRC)

(Please note: I do not have the approved minutes in hand as availability of those minutes is only after the appeal cut off date of 10 days).

These notes to follow speak to discussion of the mural within the guidelines for this vote set forth by Auburn's City Attorney.

Of the 7 attending members of the Historic Design Review Committee, 3 members voted for the mural to go forward in acknowledgement that all the buildings on Cleveland Street, are either cinderblock or vinyl sided buildings, or there is nothing historic about the location. Also acknowledged by these 3 members is that the street was on the very outskirts of the Historic District. And all 3 members stated that 'Cleveland Street could benefit from some color and life that this mural would bring.'

Of the 4 denying members, one person stated a concern with the colors only. The other 3 members spoke of the issue that this street is mapped historic. None of these 4 members, acknowledged that all the buildings on Cleveland Street are only vinyl siding or cinderblock. And, none of these 4 denying members spoke of any existence of historic charm or character of Cleveland Street. And one of these 3 members who voted to deny on the grounds of the district borders; spoke to being ok with the art work and this being an extremely difficult vote for her.

Question: Reason for Appeal

This street can benefit from some art. Nothing on Cleveland Street is historic in anyway within The Historic District Guidelines for structures. All the buildings on Cleveland Street, are either cinderblock or vinyl sided buildings. This is a privately owned building, for the improvement of Auburn, with no use of Auburn's public funds. The local businesses within 100' have all been surveyed and all of those I spoke to would like to the mural project to go forward.

A more intimate look into our thoughts for the best choice here may be found by asking ourselves this question. If we were to ask any person in Auburn, if they would want a free postcard of their favorite part of Cleveland Street as it looks today, how many people would want that free postcard? I think 0% would be takers. Then imagine asking the public if they would want a free postcard of the mural on Cleveland Street? I would envision many, citizens of Auburn and visitors would say yes and be grateful for the gift.

Question: Suggested Remedy

Vote yes for this mural to go forward to improve Cleveland Street and Auburn as a whole. See this appeal in accord with the physical facts, accepting the mapping imperfect. Bless this project with your support, as this murals spirit is to be of service to others.

Warmly,
Louis Buchetto

(These notes were compiled from listening to the audio tape of the HDRC meeting. Commissioners' names have been omitted, because with most exchanges of dialog the Commissioners did not reintroduce themselves for the audio record, so I have their words and not their names)

Question: Planning Commission Action / Condition

Of the 7 attending members of the Historic Design Review Committee, 3 members voted for the mural to go forward, acknowledging these facts (1) These buildings on Cleveland Ave., are either cinderblock or vinyl sided. (2) There is nothing that ties Cleveland Ave. into the Historic Charm of Auburn.

(3) Cleveland Ave. is the outer boarder of the Historic District. And, all 3 members voting yes for the mural project to be created; in their opinions, they stated that 'Cleveland Ave. could benefit from some color and life that this mural would bring.'

Of the 4 denying members; one person stated "I like your art a lot" but he had a concern with what may appear on other buildings in the future should the HDRC step outside signage guidelines of approving only two main colors and one trim color. This vote was outside the instructions given to the HDRC at the beginning of the meeting.

The other 3 denying members gave reasons of 'this street is in the Historic District.' None of the 4 denying members spoke of any existence of historic charm or disruption to the character of Cleveland Ave. And one of these 3 members who voted to deny on the grounds of the district boarders; spoke also of liking my art work, and this being an extremely difficult vote for her.

Question: Reason for Appeal

Because I have listened carefully to the guidelines of, the mandates given to, and thoughts of The Historical Design Review Committee and I believe with all my heart and mind that I am being very thoughtful and fair in my seeking approval for this project I bring this before The City Counsel. I believe this mural is a good thing for Auburn. I do not see it as a neutral thing or as just an OK addition to Cleveland Ave.; more cinderblocks would be neutral or OK. This is art, and in service to people, and fitting and with Historic Design Review Committee guidelines which calls for "compatibility with the character of a building"

Again, these buildings on Cleveland Ave. are not historic in anyway that ties into The Historic District Guidelines for structures. These buildings on are either cinderblock or vinyl sided. This is a privately owned building; this art is for the improvement of Auburn, privately funded, with no use of Auburn's public funds. All the local businesses within 100' have all been surveyed in person by me, and absolutely all of those I spoke with signed their names on my "yes/no option petition" with a yes vote, that they would like to see the mural on Cleveland Ave.

Ultimately we are all concerned with the publics experience of our town; so I offer you a question to consider, both practical, and beauty or art based:

If we were to ask each individual in Auburn, if they would want a free postcard of their favorite part of Cleveland Ave. as it looks today, how many people would want that free postcard? I think we'd get some pretty strange looks, and very, very few would be takers. Then imagine asking each individual in Auburn if they would want a free postcard of this mural on Cleveland Ave.? I would envision many, many citizens of Auburn and many of our visitors saying yes, and be grateful for the gift.

Question: Suggested Remedy

Vote yes for this mural to go forward to improve Cleveland Ave. as a gift to Auburn. See this appeal in line with the physical facts of Cleveland Ave.; and see the imperfect mapping of The Historic District and secondary to all things presented here. And Bless this project with your support, as service to others.

RECEIVED

JUL 5 2013

COMMUNITY DEVELOPMENT
CITY OF AUBURN

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CITY COUNCIL RESOLUTION NO. 13-_____

A RESOLUTION APPROVING AN APPEAL OF LOUIS BUCHETTO OVERTURNING
THE HISTORIC DESIGN REVIEW COMMISSION'S DENIAL OF A WALL MURAL
LOCATED AT 153 CLEVELAND AVENUE.
(HDR 13-05)

THE CITY COUNCIL OF THE CITY OF AUBURN DOES HEREBY FIND, RESOLVE
AND ORDER AS FOLLOWS:

SECTION 1. The City Council held a properly noticed, public hearing at
its regular meeting of July 22, 2013, to consider an appeal by Louis Buchetto
of the Historic Design Review Commission's denial of a Historic Design Review
Permit for a Wall Mural located at 153 Cleveland Avenue (File: HDR 13-05).

SECTION 2. The City Council has considered all of the evidence
submitted at the public hearing which includes, but is not limited to:

1. Staff report prepared by the Community Development Department for
the June 18, 2013, Historic Design Review Commission meeting.
2. Staff report prepared by the Community Development Department
for the July 22, 2013, City Council meeting.
3. Photo-illustrations, plans and supporting documents prepared for the
project.
4. Staff presentation at the public hearing held on July 22, 2013.
5. Public Comments, both written and oral, received at
or before the public hearing, supporting or opposing the applicant's request.
6. All related documents received or submitted at or prior to the
public hearing.
7. The City of Auburn General Plan, Historic Preservation Architectural
Design Guidelines, and Secretary of the Interior Standards for the Treatment
of Historic Properties.

1
2 SECTION 3. In review of all of the foregoing evidence, the City Council finds
3 the following:
4

5 1. The City Council, on the basis of the whole record before it (including
6 project environmental background information) finds that there is no
7 substantial evidence that the project will have a significant effect on the
8 environment and that the Class 1, Categorical Exemption (Section 15301) for
9 existing facilities reflects the lead agency's independent judgment and
10 environmental analysis for the project.
11

12 SECTION 4. In review of all of the foregoing evidence, the City Council
13 finds the following:
14

15 1. All documents and materials to the proceedings for the Cleveland
16 Avenue Wall Mural are maintained in the City of Auburn Community
17 Development Department; 1225 Lincoln Way, Room 3; Auburn, CA 95603.

18 2. The proposed Wall Mural is consistent with the City's *Historic*
19 *Architectural Design Guidelines* and *Secretary of the Interior Standards for the*
20 *Treatment of Historic Properties*.
21

22 Section 5. In review of all the evidence and based on the foregoing
23 findings and conclusions, the City Council hereby approves the appellants'
24 appeal, thereby overturning the Historic Design Review Commission's 4:3
25 decision to deny the Cleveland Avenue Wall Mural and to adopt a Class 1,
26 Categorical Exemption, subject to the adopted Conditions of Approval agreed
27 to by the applicant, attached as **Exhibit A** of the June 18, 2013, City Council
28 Staff Report.

1 Section 6. The time in which to seek judicial review of this decision shall
2 be governed by Code of Civil Procedure Section 1094.6. The City Clerk shall
3 certify to the adoption of this resolution, transmit copies of the same to the
4 applicant and his counsel, if any, together with a proof of mailing in the form
5 required by law and shall enter a certified copy of this resolution in the book of
6 resolutions of the City.

7
8 DATED: July 22, 2013

9
10 _____
Kevin Hanley, Mayor

11 ATTEST:

12
13 _____
Stephanie L. Snyder, City Clerk

14
15 I, Stephanie L. Snyder, City Clerk of the City of Auburn, hereby certify
16 that the foregoing resolution was duly passed at a regular meeting of the City
17 Council of the City of Auburn held on the 22nd day of July 2013 by the
following vote on roll call:

18 Ayes:

19 Noes:

20 Absent:

21 _____
Stephanie L. Snyder, City Clerk

July 2013

Colors antiqued; still a purely historic pallet
Exchanged contemporary font for an antique font "Book Antiqued"
Evergreen Trees and snow added to existing mountains

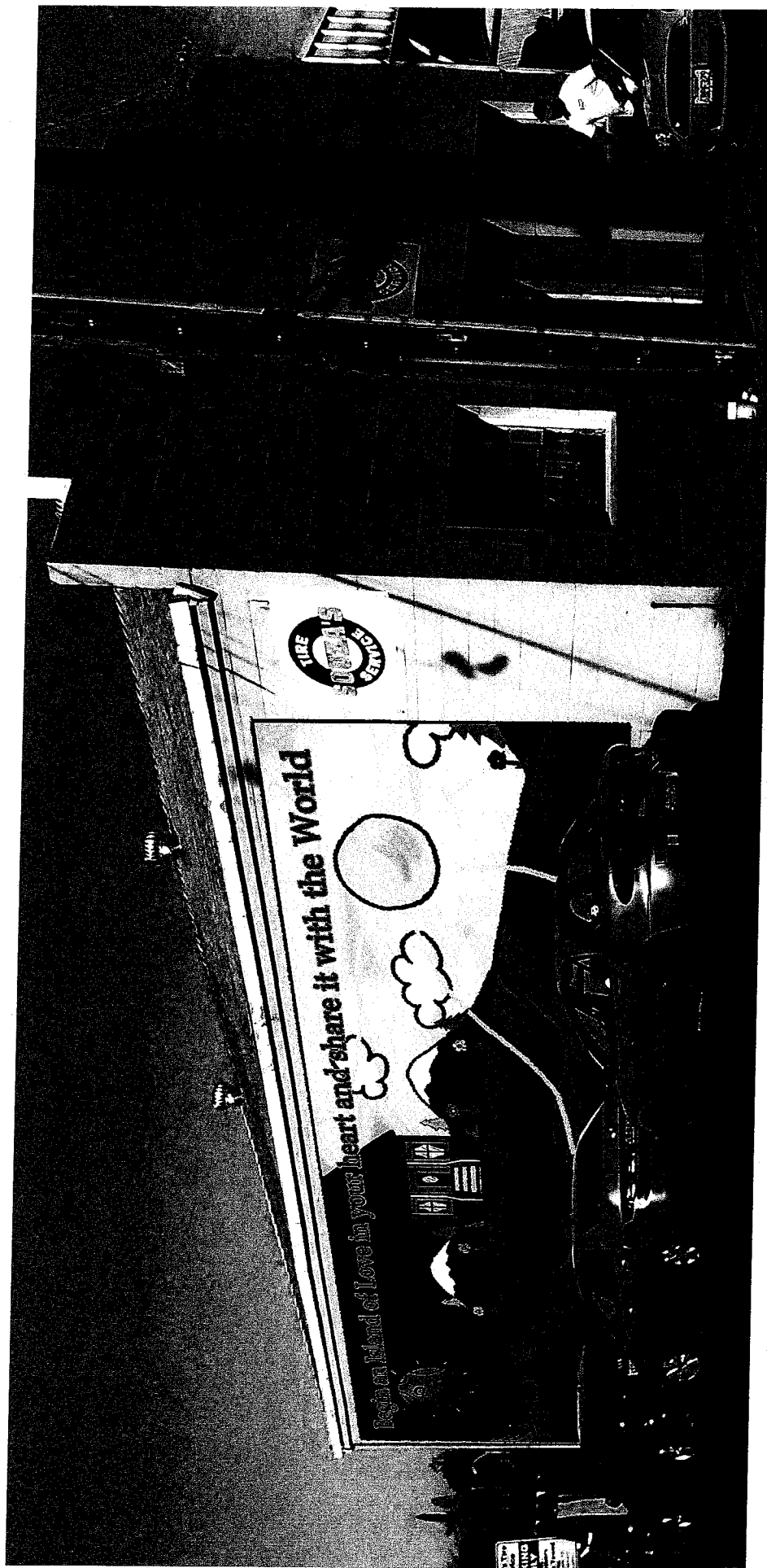


EXHIBIT E

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